

Application No. 10/731,209
Fred Stanley Filed: December 9, 2003
GAU 3611

REMARKS

35 U.S.C. 102(b) rejection:

The Examiner has rejected claims 1 through 3, 5 and 7 under 35 U.S.C. 102(b) as being anticipated by Happy Mats: Scraper Mats. The Examiner states:

"Scraper Mats discloses a method including placing a first mat on a floor space proximate to a first side of a passage area, and placing a second mat on a floor space proximate to a second side of the passage area. The two mats are *identical* in color (claims 2, 5, and 7) and texture (claim 3), which constitutes having visually observable coordinated content." (emphasis supplied)

As the Examiner has noted, each Scraper Mat is identical to the other. The Applicant has amended the independent claims 1, 5 and 7 to require that at least one mat be different (non-identical) from at least one other mat. For example, claim 1 has been amended to add the following additional limitation:

"wherein a first mat has a first content and a second mat has at least one element of content different from the first mat and at least one element of content that is the same".

This additional limitation is disclosed in the original specification. For example, Figure 7 of the elected specie illustrates two mats that have differing but coordinated content. The application states specifically at page 5, beginning at line 23:

"Figure 7 illustrates an overhead view of a decorative coordinated mat system comprised of two mats 300 350 again *having separate designs but that are coordinated into a composite composition* having an intended motif or theme. (emphasis added)

As the Federal Circuit recently repeated in Phillips v. AWH Corporation, 03-1269, decided July 15, 2005:

"The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction 'in light of the specification as it would be interpreted by

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one of ordinary skill in the art." (citing In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1384 (Fed. Cir. 2004))

Therefore the claim amendments do not incorporate new matter.

Again, each Scraper Mat (referenced by the Examiner) is identical to the other. The Scraper Mat therefore does not contain or disclose all of the limitations of the amended claims. To anticipate a claim, the reference must teach every element of the claim. MPEP §2131. Since the Scraper Mat does not disclose every claim limitation, the rejection must be withdrawn.

35 U.S.C. 103(a) rejection:

The Examiner has rejected claims 4 and 6 under 35 U.S.C. §103(a) as being unpatentable over Happy Mats: Scraper Mats ("Scraper Mats") in view of Happy Mats: Washable Rubber Backed Logo Mats ("Logo Mats"). The Examiner's rejection states:

"Scraper Mats' discloses the invention substantially as claimed, as set forth above. However, the mats do not include text information.

'Logo Mats' teaches that it was known in the art to apply text information to entry mats of the type disclosed by 'Scraper Mats'. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply *matching* text information to the mats disclosed by 'Scraper Mats', as taught by 'Logo Mats', in order to provide customers with a safety warning." (emphasis supplied)

"Regarding claim 6, the message constitutes a decorative theme."

The Applicant has amended the claims of the application such that at least one mat of the multi-mat system is different than at least one other mat. The scraper mat reference discloses multiple identical mats. The Logo Mat reference merely discloses a mat containing text information. The Examiner states it would be obvious to have multiple mats containing matching text information.

It is the Applicant's position that the combined references do not teach that the text information be coordinated in a theme wherein the text information of one mat is

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different from the text information of a second mat. There is no suggestion or teaching of text information content of one mat being coordinated with differing text information content of a separate mat.

For example, the combined references make no suggestion or provides no motivation of having a first mat reading "entrance" and a second mat stating "welcome".

It is the Applicant's position that the combined references do not teach all of the limitations of the claimed invention. "Obviousness requires a suggestion of all limitations in a claim." CFMT, Inc. v. Yieldup International Corp., 349 F.3d 1333, 1342, 68 USPQ2d 1940, 1947 (Fed. Cir. 2003) citing In re Royka, 490 F.2d 981, 985 (CCPA 1974). Since the references do not contain all the elements of the claimed invention, there can be no finding of obviousness. This flaw exists even if, for purposes of argument, the references supplied the necessary motivation or suggestion for combination.

It is also the Applicant's position that the references contain no suggestion or motivation for combining multiple mats containing *identical* designs or text information. Not only must each claim limitation be disclosed within the combined references, but there must also be a suggestion of motivation within the references for making the combination. This requirement has been repeatedly stated by the Federal Circuit. For example, see In re Sang Su Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002) wherein the court stated that there must be an explanation of the "reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious."

Therefore, even if all the claim elements were disclosed by the references (which they are not) there can be no finding of obviousness.

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SUMMARY

The Applicant has amended the claims to overcome the Examiner's §102(b) rejection. The amended claims also contain limitations not disclosed within the combined references subject of the Examiner's §103(a).

The Applicant has replaced one paragraph of the specification to enhance consistency of terms and meanings between the claims and the specification. No new matter has been added.

Accordingly, the Applicant respectfully requests reconsideration of the Examiner's rejection. The Applicant believes the claims are in order for allowance and such action is respectfully requested.

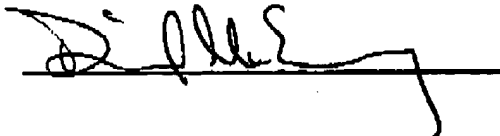
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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on August 3, 2005.



I am a patent attorney practicing in Houston for the last 7 years. I am focused primarily in representing small businesses and startup companies. Many of my clients are business professionals that in some cases are starting a second career.

I am very enthused about the job that I perform and enthused in working with this niche of clientele, that is, small business and entrepreneurs. They have a lot of enthusiasm but at the same time a great deal of sophistication. They can bring a clientele that is small business and entrepreneurs.

PAGE 10/10 * RCVD AT 8/3/2005 8:05:09 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2738300 * CSID:281 361 8637 * DURATION (mm-ss):06-22

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